

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

CV-18-69-GF-BMM

MONTANA WILDLIFE
FEDERATION; THE WILDERNESS
SOCIETY; NATIONAL AUDUBON
SOCIETY; NATIONAL WILDLIFE
FEDERATION; and MONTANA
AUDUBON,

Plaintiffs,

vs.

RYAN ZINKE, in his official capacity
as Secretary of the Interior; DONATO
JUDICE, in his official capacity as
Montana Bureau of Land Management
Deputy State Director; UNITED
STATES BUREAU OF LAND
MANAGEMENT; and UNITED
STATES DEPARTMENT OF THE
INTERIOR,

Defendants,

ORDER

1. Nature of the Case: The parties agree that this case involves judicial review of agency action under the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–06, and remains exempt pursuant to Fed. R. Civ. P. 26(a)(1)(B)(i) and Local Rule 16.2(a) from the requirements of initial disclosures, a discovery

plan, expert disclosures, or trial. The parties anticipate that this matter will be resolved by cross-motions for summary judgment rather than trial.

Proceedings in this case will occur in stages, as described below:

2. Phase One Summary Judgment Motions: The initial phase of the case (“Phase One”) will address all claims and defenses with respect to the National Directives. Phase One Summary Judgment Motions will address claims challenging the leasing decisions for the Montana December 2017 lease sale, the Montana March 2018 lease sale, and the June 2018 Wyoming lease sale, as proposed by Plaintiffs. *See* Am. Compl. ¶¶ 62-67, 83-85. This approach will provide the Court with a representation of how the National Directives have been applied to the challenged leasing decisions.

Adjudication of Plaintiffs’ claims concerning the remaining leasing decisions will be stayed pending the Court’s resolution of the Phase One Summary Judgment Motions. The following schedule will apply to proceedings in connection with the Phase One Summary Judgment Motions:

September 13, 2019: Federal Defendants to lodge the administrative records for the decisions covered by the Phase One Summary Judgment Motions with the Court.

September 13, 2019: Deadline for all parties to file motions seeking to complete or supplement the administrative records for the decisions covered by the

Phase One Summary Judgment Motions. If any such motions are filed, the parties will submit a status report and proposed summary judgment briefing schedule within 21 days after those motions are resolved and any materials added to the record.

If no administrative record motions are filed, summary judgment motions will be briefed according to the schedule below.

September 27, 2019: Plaintiffs to file their summary judgment motion addressing all claims at issue in Phase One.

November 8, 2019: Federal Defendants to file their combined summary judgment response and cross-motion for summary judgment addressing all claims at issue in Phase One.

November 29, 2019: Defendant-Intervenors to file summary judgment responses and cross-motions for summary judgment on all claims at issue in Phase One. Intervenors shall not repeat arguments raised by the Federal Defendants, but may adopt and incorporate those arguments by reference.

January 10, 2020: Plaintiffs to file their combined summary judgment reply and response to the cross-motions for summary judgment on all Phase One claims.

January 31, 2020: Federal Defendants to file their reply in support of their cross-motion for summary judgment on all Phase One claims.

February 14, 2020: Intervenors to file their replies in support of cross-motions for summary judgment on all Phase One claims. Intervenors shall not repeat arguments raised by the Federal Defendants, but may adopt and incorporate those arguments by reference.

3. Phase One Summary Judgment Motion Page Limits: Due to the complexity of this case, the following modifications will apply to the page limits under Local Rule 7.2(d)(2):

- Plaintiffs' principal summary judgment brief, and the Federal Defendants' combined summary judgment response and cross-motion for summary judgment, are limited to 13,000 words each.

- Defendant-Intervenors State of Wyoming and Western Energy Alliance may each file a summary judgment response and cross-motion for summary judgment of no more than 7,500 words;

- Plaintiffs' combined summary judgment reply and response to cross-motions for summary judgment, and the Federal Defendants' reply in support of their cross-motion for summary judgment, are limited to 6,500 words each.

- Defendant-Intervenors State of Wyoming and Western Energy Alliance may each file a reply in support of the cross-motions for summary judgment of no more than 3,250 words.

4. Other Motions: Motions for summary judgment, or other dispositive motions, that address lease sales not included in Phase One are not permitted until the Phase One Summary Judgment Motions have been resolved.

5. Appeal of Phase One Summary Judgment Decision: As proposed by the parties, the Phase One Summary Judgment Motions are intended to facilitate the orderly and expeditious resolution of this litigation by obtaining rulings from the Court on central factual and legal issues. The parties have agreed that if, following the Court's resolution of the Phase One Summary Judgment Motions, a party or parties move the Court to enter final judgment as to those claims pursuant to Fed. R. Civ. P. 54(b), or seeks certification for an interlocutory appeal pursuant to 28 U.S.C. § 1292(b), the other parties will not oppose such a request.

6. No Preclusive Effect of Test Case Summary Judgment Motions: As proposed by the parties, the Court's decision on the Phase One Summary Judgment Motions will not be binding on non-Phase One claims under the doctrines of res judicata, collateral estoppel, issue preclusion, or otherwise.

7. No Waiver: In proposing this Case Management Stipulation solely to facilitate orderly resolution of this litigation and avoid unnecessary judicial proceedings, the parties have agreed that no party waives any claim, defense, or argument, other than as expressly provided in this order.

ORDER

IT IS SO ORDERED:

DATED this 11th day of July, 2019.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Brian Morris
United States District Court Judge